

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

PMC, Inc.,

Petitioner-Appellant,

v.

Dickinson County Board of Review,

Respondent-Appellee.

**ORDER**

**Docket No. 09-30-1246**  
**Parcel No. 06-02-380-016**

**Docket No. 09-30-0731**  
**Parcel No. 06-02-380-014**

**Docket No. 09-30-0732**  
**Parcel No. 06-02-380-015**

On August 9, 2010, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, PMC Inc., requested a hearing and was represented by Timothy Meyer. The Dickinson County Board of Review designated County Attorney Lonnie Saunders as its legal representative. Both parties submitted evidence in support of their positions. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

*Findings of Fact*

PMC, Inc., (PMC) is the owner of three residentially classified parcels located at 15964 Highway 86, Spirit Lake, Iowa. The three parcels are owned by a corporation consisting of twenty-two small cabins, generally sized between 600 to 1200 square feet, sitting on 25 foot wide lots within the total development. The three parcels have a total site size of 68,856 square feet, allocated to each parcel as follows: Parcel 06-02-380-014 (Lots 10 and 11) with 26,956 square feet, Parcel 06-02-380-016 (Lot 13) with 22,575 square feet, and Parcel 06-02-380-015 (Lot 12) with 19,325 square feet.

Each of the cabin owners own shares of PMC and lease the land under their cabin(s) for \$1.00 per year from the corporation. Two of the three parcels have improvements. Improvements on Parcel 06-02-380-015 include a driveway and paving. Improvements on Parcel 06-02-380-016 include a 1350 square-foot community recreation building with a 486 square-foot screened porch. Each of the twenty-two cabins in the development has their own unique parcel number and the improvements are assessed separately to each private cabin owner.

The parcels under appeal have a January 1, 2009, assessment shown in the following table:

Docket Number	Parcel Number	Allocation to Land	Allocation to Improvements	Total Assessed Value
09-30-1246	06-02-380-015	\$673,800	\$4,100	\$677,900
09-30-0731	06-02-380-014	\$1,202,800	\$0	\$1,202,800
09-30-0732	06-02-380-016	\$690,500	\$17,800	\$708,300
	Total	\$2,567,100	\$21,900	\$2,589,000

PMC appealed to the Dickinson County Board of Review regarding the 2009 assessment for these parcels. The appeal was based on the following grounds: 1) The assessment is not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); 2) The property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), stating that the parcels had a total value \$1,011,900, representing \$990,000 in land value and \$21,900 in improvement value; 3) The properties are not assessable, are exempt from taxes or are misclassified under section 441.37(1)(c) stating "Lot 12 is unbuildable"; 4) There is an error in the assessment under section 441.37(1)(d), stating the error was that Parcel 06-02-380-015 cannot be built on and its value is already reflected in the individual cabins' value, and that corporate by-laws and zoning restrict building on this parcel; and 5) There has been a change downward in the value since the last assessment under sections 441.35(3) and 441.37(1). The Board of Review denied the protest.

PMC then appealed to this Board reasserting its original claims. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider it within the claim of over-assessment.

PMC's primary assertion is that the Dickinson County Assessor used a front-foot method of valuation when it alleges a more proper method of valuation would be to use the S&P/Case-Shiller Index, USA (Case-Shiller Index), a national home pricing index. The Case-Shiller Index is a composite of single-family homes-price indices for the nine U.S. census divisions and is calculated quarterly.

Timothy Meyer testified on behalf of PMC. Meyer testified that the PMC development is unique and suggests the Case-Shiller Index is the most appropriate method of valuing the subject parcels compared to the Board of Review using a front-foot price of other properties around the lake.

Meyer testified at length and provided many graphs and photos of properties within the PMC development which he considered as the only comparable data. Meyer considered eleven sales of cabins within PMC which occurred between 1995 and 2009. Two of the transactions were re-sales. Only one sale occurred in 2009, with the next most recent sale occurring in 2006, then 2004 and 2000. The remainder of the sales all occurred prior to 1999. We note Meyer used different sales prices than the assessor, stating he backed out personal property. He then applies time adjustments using the Case-Shiller Index and concludes a current opinion of value for the properties. Meyer subtracts the dwelling value from the time adjusted, current value opinion to determine the land value. Lastly, he applies the land values to similarly tiered cabins within PMC and sums those values for a total PMC land value for each parcel. The three "tiers" are based upon the distance of the cabins to the lake-front and associated views. The first tier (Lots 1-14) is lakeshore, the middle tier (Lots 5-11 and 17 thru 22) is off the lake-front and the last tier (Lots 12-16) is close to Highway 86.



This process is almost identical to the valuation process employed by the Board of Review, with the exception of using the Case-Shiller Index compared to West Lake Okoboji pricing. When asked if he considered the Case-Shiller analysis for other West Lake properties, Meyer replied that he could not comment on any other properties because he had only done the analysis for PMC.

Meyer testified he also considered a sale from a similar "share-type ownership" development known as Acorn Ridge. Meyer stated he did not consider all sales which occurred in 2009 within Acorn Ridge, but rather he only considered one sale that had sold two times. The unit in Acorn Ridge which Meyer considered sold in 2006 for \$205,000, and then in 2009 for \$185,000. There is no explanation for the decrease in sales price from 2006 to 2009. Meyer did not provide any confirmation that the 2006 and 2009 sales were both arm's length. There is insufficient evidence presented to support an assertion this one property demonstrates a declining market.

Dickinson County Assessor Patricia Dodds testified for the Board of Review, stating "sales may be slow, but the market is not decreasing." Dodd's testified to the valuation methods used to determine land value for PMC, and that it is the same valuation method used throughout the West Lake area. Dodd's stated she used \$11,000 per front foot which is at the low end of her range. She indicated the range went as high as \$14,000 per front foot. She then applies a depth factor for sites less than or in excess of 150 feet deep.

Dodd explained in exhibit G how she reconciled the sales information and concluded a range of value for each tier, with a total range of value for the combined parcels of \$2,387,100 to \$2,624,000. She also indicates she looked at the 4-3-2-1 Rule cited in the *Property Assessment Valuation, Second Edition*, by the International Association of Assessing Offices (IAAO). She states in exhibit G that she used ranges of values due to the difficulty of establishing one value, with the lack of sales information and the amount of time adjustments made to the available sales. Dodd's concludes her reconciliation

by noting the three lots considered in this appeal are valued at \$2,589,000 which is within her concluded range of value.

While Meyer offered significant thought and details to his analysis, he none the less employed a method of valuation which is not used on any other property on West Lake or in Dickinson County. Additionally, Meyers relies solely on the Case-Shiller Index which is based on national market data and did not reflect market conditions in his area. No evidence was presented which demonstrated the Board of Review used a valuation method differently to value PMC than it considered for other like properties in the taxing district; and no evidence was presented demonstrating inequity in market value to assessed value. We find insufficient evidence has been presented to support an assertion that PMC is inequitably assessed or over-assessed.

No evidence was presented regarding the claim the PMC parcels are not assessable, are exempt from taxes or misclassified; and no evidence was presented in regards to the claim of an error.

Based upon the foregoing, the Appeal Board finds insufficient evidence has been submitted by PMC to support the claims brought before this Board.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all



of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

PMC did not assert the assessor failed to apply an assessing method uniformly to similarly situated or comparable properties; however believes that its property should be valued using a method different from how other like properties in the area are valued. PMC also fails to provide evidence to complete the Maxwell test.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). PMC did not provide this Board with evidence of comparable sales that showed its property was over-assessed.


The Iowa Department of Revenue has promulgated rules for the classification and valuation of real estate. See Iowa Admin. Code r. 701-71.1. Classifications are based on the best judgment of the assessor following the guidelines in the Iowa Administrative Code. *Id.* r. 701-71.1(1). Property is to be classified according to its primary use. *Id.* There can be only one classification per property. *Id.* r. 701-71.1(1). Boards of Review, as well as assessors, are required to adhere to the rules when they classify property and exercise assessment functions. *Id.* r. 701-71.1(2). There was no evidence presented by PMC supporting a claim the property is misclassified. In an exemption case, it is appropriate for the Appeal Board to “strictly construe a statute and any doubt about an exemption is resolved in favor of taxation.” *Carroll Area Child Care Center, Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000). There was no evidence presented by PMC supporting a claim the property is exempt.

Section 441.37(1)(d) allows a protest on the ground “[t]hat there is an error in the assessment.” The administrative rule interpreting this section indicates that the error may be more than clerical or mathematical. Iowa Administrative r. 701-71.20(4)(b)(4) (emphasis added). PMC failed to provide evidence to support its claim of error.

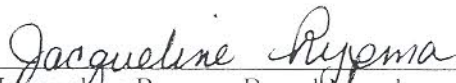
In the opinion of the Appeal Board, the evidence does not support the claims brought before this Board. We, therefore, affirm the assessment of the three residentially classified parcels located at 15964 Highway 86, Spirit Lake, Iowa., as determined by the Dickinson County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of the PMC's three residentially classified parcels located at 15964 Highway 86, Spirit Lake, Iowa, also known as Parcel numbers: 06-02-380-014, 06-02-380-016, and 06-02-380-015, as of January 1, 2009, set by the Dickinson County Board of Review, are affirmed.

Dated this 22 day of September, 2010

  
Karen Oberman, Presiding Officer

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-22</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	